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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No.854 of 1987

Vijay Shanker Applicant.

Versus

The Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Skilled Welder in the pay Scale of 260-400(RS) in the Loco Frame Shop Diesel Locomotive Works Varanasi after completion of the prescribed training in the year 1976. He remained absent from duty w.e.f. 7.2.1985 to 28.2.1985. An enquiry officer was appointed, the applicant submitted his representation to Sri Dhirender Singh, the enquiry officer wherein he nominated one Sri Shekan Ram Shastri office Superintendent (retired), Northern Railway, Varanasi as his defence counsel. The enquiry officer rejected the request of the applicant in respect of the nomination of Sri Shokan Ram as his defence counsel and fixed 2.4.1986 for holding the enquiry vide his letter dated 20.3.1986.

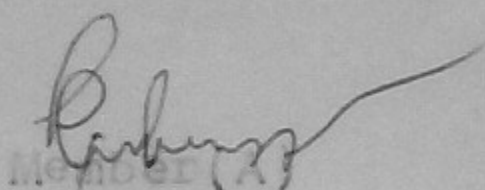
2. From the reply filed by the respondents, it appears that the applicant's defence was rejected, as a retired employee could not have been allowed to appear as a defence counsel. It is only the employee of another railway or a lawyer could have been allowed. According to the applicant, he did not receive such a registered notice, although he was residing only at a distance of 8 Kms. away and that is why he could not appear in the same.

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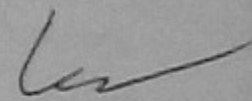
On 4.4.1986, he submitted an application to the enquiry officer for nominating another employee. The said application, according to the applicant was not allowed and an ex-parte finding was submitted on 20.3.1986. The applicant filed a representation dated 7.8.1986 and 5.9.1986 for supply of the copy of the ex-parte findings of the enquiry officer but the same was not supplied to him, thereafter he filed an appeal on 16.10.1986. The appeal was also dismissed.

3. The respondents have pointed out that efforts were made to serve upon the applicant the copy of the enquiry officer's report but the applicant has been avoiding service. As the applicant has been avoiding enquiry, the enquiry officer has no option, but to proceed with the enquiry. He was residing at a distance of 8 Kms., it is strange that he got the copy of the registered notice delivered to him at a very next day. But, anyhow, as it is a case of an ex-parte enquiry, and taking into consideration the fact, we set aside the enquiry report and the findings of the enquiry officer dated 23.4.1986 and direct the respondents to hold a fresh enquiry after giving an opportunity of hearing to the applicant. The applicant shall fully cooperate with the enquiry. The disciplinary authority will conclude the enquiry within a period of three months from the date of communication of this order and so far as the salary during this period is concerned, the same will follow the result of the enquiry. The

application is disposed of with the above directions.
Parties to bear their own costs.


Member (A)

Dated: 3.12.1992
(n.u.)



Vice-Chairman